
STATUTORY INSTRUMENTS

2018 No. 1401

**The Capital Requirements (Amendment)
(EU Exit) Regulations 2018**

PART 4

Amendment of retained direct EU legislation

CHAPTER 1

Amendment of the Capital Requirements Regulation

Amendments to the Capital Requirements Regulation

61. The Capital Requirements Regulation is amended in accordance with this Chapter and Chapters 2 and 3.

Article 1 (scope)

62. In Article 1 (scope)—

- (a) for “institutions supervised under [Directive 2013/36/EU](#)” substitute “CRR firms”;
- (b) in the closing paragraph, omit the words from “This Regulation” to the end.

Article 2 (supervisory powers)

63. For Article 2 (supervisory powers) substitute—

“For the purposes of ensuring compliance with this Regulation the competent authorities shall have the powers and shall follow the procedures set out in [Directive 2013/36/EU](#) UK law.”⁽¹⁾

Article 4(1) (definitions)

64.—(1) Article 4(1) (definitions) is amended as follows.

(2) In point (2) (definition of ‘investment firm’)—

- (a) for the words from “point (1) of” to “that Directive” substitute “paragraph 1A of Article 2 of Regulation 600/2014/EU, as that Article has effect subject to the requirements imposed by the United Kingdom legislation that implemented [Directive 2014/65/EU](#), as amended from time to time”⁽²⁾;
- (b) in paragraph (c)—
 - (i) for “point (1) of Section B of Annex I to [Directive 2004/39/EC](#)” substitute “paragraph 1 of Part 3A of Schedule 2 to the Regulated Activities Order”;

⁽¹⁾ “[Directive 2013/36/EU](#) UK law” is defined in Article 4A(2).

⁽²⁾ OJNo. L. 173, 12.6.2014, p.349 - 496.

- (ii) for “points 1, 2, 4 and 5 of Section A of Annex I to that Directive” substitute “paragraphs 1, 2, 4 and 5 of Part 3 of Schedule 2 to the Regulated Activities Order”.
- (3) After point (2), insert—
- “(2A) ‘CRR firm’ means a person that satisfies the following conditions—
- (a) it is an authorised person within the meaning of section 31(1)(a) of FSMA that—
 - (i) is a credit institution which has permission under Part 4A of FSMA to carry on the regulated activity of accepting deposits; or
 - (ii) is an investment firm;
 - (b) its registered office, or if it has no registered office, its head office, is in the United Kingdom; and
 - (c) it is not a credit union within the meaning of the Credit Unions Act 1979 or the Credit Unions (Northern Ireland) Order 1985, or a friendly society within the meaning of section 417(1) of FSMA;
- and for the purposes of this definition, ‘regulated activity’ has the meaning in section 22 of FSMA, and ‘accepting deposits’ has the meaning in Regulation 5 of the Regulated Activities Order;
- (2B) ‘Solvency II excluded operations’ has the meaning given in the PRA rulebook;”(3).
- (4) In point (5), (definition of ‘insurance undertaking’) for the words “point (1) of Article 13 of” to the end, substitute “section 417 of FSMA”.
- (5) In point (6), (definition of ‘reinsurance undertaking’) for the words “point (4) of Article 13 of [Directive 2009/138/EC](#)” substitute “section 417 of FSMA”.
- (6) After point (6), insert—
- “(6A) ‘pure reinsurer’ has the meaning given in the PRA rulebook;”.
- (7) In point (7) (definition of ‘collective investment undertaking’)—
- (a) for the words from “Article 1(2) of [Directive 2009/65/EC](#)” to “transferrable securities (UCITS)” substitute “section 236A of FSMA”;
 - (b) omit “to Union law or”;
 - (c) for “the Union,” to the end substitute “the United Kingdom, a UK AIF, EEA AIF or a third country AIF within the meaning of regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013”(4).
- (8) For point (9) (definition of ‘management body’) substitute—
- “(9) ‘management body’ means an institution’s body, which is appointed in accordance with national law, which is empowered to set the institution’s strategy, objectives and overall direction, and which oversees and monitors management decision-making, and includes the persons who effectively direct the business of the institution;”.
- (9) After point (9), insert—
- “(9A) ‘management body in its supervisory function’ means the management body acting in its role of overseeing and monitoring management decision-making;”.
- (10) For point (10) (definition of ‘senior management’) substitute—
- “(10) ‘senior management’ means those natural persons who exercise executive functions within an institution and who are responsible, and accountable to the management body, for the day-to-day management of the institution;”.

(3) Credit Unions Act 1979 c.34, Credit Unions (Northern Ireland) Order 1985 SI 2013/1773.

(4) S.I. 2013/1773.

- (11) For point (11) (definition of ‘systemic risk’) substitute—
- “(11) ‘systemic risk’ means a risk of disruption in the financial system of the United Kingdom with the potential to have serious negative consequences for the financial system and the real economy of the United Kingdom;”.
- (12) For point (12) (definition of ‘model risk’) substitute—
- “(12) ‘model risk’ means the potential loss an institution may incur as a consequence of decisions that could be principally based on the output of internal models due to errors in the development, implementation or use of such models;”.
- (13) For point (15) (definition of ‘parent undertaking’) substitute—
- “(15) ‘parent undertaking’ means—
- (a) a parent undertaking within the meaning of section 1162 of the Companies Act 2006; or
 - (b) for the purposes of [Directive 2013/36/EU](#) UK law which implemented Section II of Chapters 3 and 4 of Title 7 and Title 8, and for the purposes of Part 5 of this Regulation—
 - (i) a parent undertaking within the meaning of section 1162 of the Companies Act 2006, apart from the meaning given in subsection (4), or
 - (ii) an undertaking which effectively exercises a dominant influence over another undertaking;where section 1162(5) of the Companies Act 2006 applies to parent undertakings falling within point (b)(ii) as it applies to parent undertakings falling within section 1162;”(5).

(14) For point (16) (definition of ‘subsidiary’) substitute—

“(16) ‘subsidiary’ means—

 - (a) a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006; or
 - (b) for the purposes of [Directive 2013/36/EU](#) UK law which implemented Section II of Chapters 3 and 4 of Title 7 and Title 8, and for the purposes of Part 5 of this Regulation—
 - (i) a subsidiary undertaking within the meaning of section 1162 of the Companies Act 2006, apart from the meaning given in subsection (4), or
 - (ii) an undertaking over which another undertaking effectively exercises a dominant influence;where section 1162(5) of the Companies Act 2006 applies to subsidiaries falling within point (b)(ii) as it applies to subsidiaries falling within section 1162;”.

(15) For point (19) (definition of ‘asset management company’) substitute—

“(19) ‘asset management company’ means—

 - (a) a person who has permission under Part 4A of FSMA to carry on the regulated activity of managing a UK UCITS (as specified in article 51ZA of the Regulated Activities Order), or would require that permission if its registered office were located in the United Kingdom;
 - (b) a person who has permission under Part 4A of FSMA to carry on the regulated activity of managing an AIF (as specified in article 51ZC of the Regulated

Activities Order), or would require that permission if its registered office were located in the United Kingdom; or

- (c) a person who is registered as a small AIFM within the meaning of regulation 9 of the Alternative Investment Fund Managers Regulations 2013 under Part 3 of those Regulations, or would require that permission if its registered office were located in the United Kingdom;

including, unless otherwise provided, a third-country entity that carries out similar activities and that is subject to the laws of a third country which applies supervisory and regulatory requirements at least equivalent to those applied in the United Kingdom;”(6).

(16) In point (23) (definition of ‘third-country insurance undertaking’), for “point (3) of Article 13 of [Directive 2009/138/EC](#)” substitute “the Solvency 2 Regulations 2015”(7).

(17) In point (24) (definition of ‘third-country reinsurance undertaking’), for “point (6) of Article 13 of [Directive 2009/138/EC](#)” substitute “the Solvency 2 Regulations 2015”.

(18) In point (25) (definition of ‘recognised third-country investment firm’)—

- (a) omit “recognised” from the defined term;
- (b) in point (a), for “Union” substitute “United Kingdom”;
- (c) in point (c) for “[Directive 2013/36/EU](#)” substitute “[Directive 2013/36/EU](#) UK law”.

(19) After point (25) insert—

“(25A) ‘third country’ means a country or territory outside the United Kingdom”;

(20) In point (26) (definition of ‘financial institution’)—

- (a) after “one or more of the” insert “Annex 1”;
- (b) omit “of Annex I to [Directive 2013/36/EU](#)”;
- (c) for the words from “a payment institution within” to “internal market” substitute “an authorised payment institution within the meaning of regulation 2 of the Payment Services Regulations 2017”(8);
- (d) for “, respectively, in points (f) and (g) of Article 212(1) of [Directive 2009/138/EC](#)” substitute “in the PRA rulebook”.

(21) After point (26) insert—

“(26A) ‘Annex 1 activities’ means the list of activities set out in Annex 1 to [Directive 2013/36/EU](#) as it had effect immediately before exit day, with the following amendments—

- (a) omit the heading;
- (b) in point 4 for the words “Article 4(3) of [Directive 2007/64/EC](#)” substitute “regulation 2 of the Payment Services Regulations 2017”;
- (c) after point 15—
 - (i) for “Sections A and B of Annex I to [Directive 2004/39/EC](#)” substitute “Parts 3 and 3A of Schedule 2 to the Regulated Activities Order”;
 - (ii) for “Section C of Annex I of that Directive” substitute “Part 1 of Schedule 2 to the Regulated Activities Order”;
 - (iii) omit the words from “, are subject to” to the end.”.

(22) In point (27) (definition of ‘financial sector entity’)—

(6) Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, [S.I. 2001/544](#); articles 51ZA and 51ZC substituted by Schedule 2(1) Alternative Investment Fund Managers Regulations 2013, [S.I. 2013/1773](#).

(7) [S.I. 2015/575](#).

(8) [S.I. 2017/752](#).

- (a) in point (h), for “point (f) of Article 212(1) of [Directive 2009/138/EC](#)” substitute “the Solvency 2 Regulations 2015”;
- (b) for point (k) substitute—
 - “(k) a non-directive firm as defined in the PRA Rulebook unless that non-directive firm is only a non-directive firm because either—
 - (i) the firm’s Part 4A permission includes a requirement that it may only carry on Solvency II excluded operations; or
 - (ii) the firm is a pure reinsurer which ceased to conduct new reinsurance contracts before 10 December 2007;”.
- (23) In point (28) (definition of ‘parent institution in a Member State’)—
 - (a) for “parent institution in a Member State” substitute “UK parent institution”;
 - (b) for “a Member State which” substitute “the United Kingdom which”;
 - (c) for “same Member State”, in both places it occurs, substitute “United Kingdom”.
- (24) Omit point (29) (definition of ‘EU parent institution’).
- (25) In point (30) (definition of ‘parent financial holding company in a Member State’)—
 - (a) for “parent financial holding company in a Member State” substitute “UK parent financial holding company”;
 - (b) for “same Member State”, in both places it occurs, substitute “United Kingdom”.
- (26) Omit point (31) (definition of ‘EU parent financial holding company’).
- (27) In point (32) (definition of ‘parent mixed financial holding company in a Member State’)—
 - (a) for “parent mixed financial holding company in a Member State” substitute “UK parent mixed financial holding company”;
 - (b) for “the same Member State” substitute “the United Kingdom”;
 - (c) for “that same Member State” substitute “the United Kingdom”.
- (28) Omit point (33) (definition of ‘EU parent mixed financial holding company’).
- (29) For point (35) (definition of ‘participation’) substitute—

“(35) ‘participation’ means rights in the capital of other undertakings, whether or not represented by certificates, which, by creating a durable link with those undertakings, are intended to contribute to the activities of the undertaking which holds those rights, or the ownership, direct or indirect, of 20% or more of the voting rights or capital of an undertaking;”.
- (30) After point (38), insert—

“(38A) ‘common management relationship’ means a relationship between an undertaking (“U1”) and one or more other undertakings (“U2”) which satisfies the following conditions—

 - (a) U1 and U2 are not connected in the manner described in section 1162 of the Companies Act 2006; and
 - (b) either—
 - (i) U1 and U2 are managed on a unified basis pursuant to a contract with U1, or provisions in U2’s memorandum or articles of association; or

- (ii) the administrative, management or supervisory bodies of U2 consist, for the major part, of the same persons in office as U1, during the financial year of U1 for which it is being decided whether such a relationship exists;”(9).
- (31) In point (40) (‘definition of ‘competent authority’), for “Member State concerned” substitute “United Kingdom (or, where the context requires, a third country)”.
- (32) For point (41) (definition of ‘consolidating supervisor’) substitute—
 - “(41) ‘consolidating supervisor’ means the competent authority responsible for the exercise of supervision on a consolidated basis of—
 - (a) a UK parent institution, or
 - (b) an institution controlled by a UK parent financial holding company or UK parent mixed financial holding company;
 determined in accordance with Article 4B.”
- (33) Omit point (43) (definition of ‘home Member State’).
- (34) Omit point (44) (definition of ‘host Member State’).
- (35) Omit point (45) (definition of ‘ESCB central banks’).
- (36) For point (46) (definition of ‘central banks’) substitute—
 - “(46) ‘central banks’ means the Bank, the European Central Bank and the central banks of third countries;”.
- (37) In point (50)(b) (definition of ‘financial instrument’) for “Section C of Annex I to [Directive 2004/39/EC](#)” substitute “Part 1 of Schedule 2 to the Regulated Activities Order”.
- (38) For point (51) (definition of ‘initial capital’) substitute—
 - “(51) ‘initial capital’ means the amount and types of own funds specified—
 - (a) for credit institutions in rule 12.1 of the Definition of Capital Part of the PRA rulebook; and
 - (b) for investment firms—
 - (i) where it applies, in rule 12.1 of the Definition of Capital Part of the PRA rulebook; or
 - (ii) otherwise, as the case may be, in—
 - (aa) rules 3.1.6, 3.1.8 and 3.1.9 of the FCA’s Prudential sourcebook for Investment Firms; or
 - (bb) rules 9.2.4, 9.2.5 and 9.2.8 of the FCA’s Interim Prudential sourcebook for Investment Businesses;”.
 - (39) In point (75) (definition of ‘residential property’) omit “, including the right to inhabit an apartment in housing cooperatives located in Sweden”.
 - (40) In point (77) (definition of ‘applicable accounting framework’) for “[Directive 86/635/EEC](#)” substitute “[Directive 86/635/EEC](#) UK law”.
 - (41) For point (87) (definition of ‘multilateral trading facility’) substitute—
 - “(87) ‘multilateral trading facility’ has the meaning given in Article 2(1)(14) of Regulation 600/2014/EU;”.
 - (42) For point (92) (definition of ‘regulated market’) substitute—
 - “(92) ‘regulated market’ has the meaning given in Article 2(1)(13A) of Regulation 600/2014/EU;”.

- (43) For point (101) (definition of ‘basic own funds’) substitute—
“(101) ‘basic own funds’ has the meaning given in the PRA rulebook;”.
- (44) For point (102) (definition of ‘Tier 1 own-fund insurance items’) substitute—
“(102) ‘Tier 1 own-fund insurance items’ means basic own-fund items of insurance undertakings and reinsurance undertakings where those items are classified in Tier 1 in accordance with rule 3.1 of the Own Funds Part of the PRA rulebook;”.
- (45) In point (103) (definition of ‘additional Tier 1 own-fund insurance items’)—
(a) for “undertakings subject to the requirements of [Directive 2009/138/EC](#)” substitute “insurance undertakings and reinsurance undertakings”;
(b) omit “within the meaning of [Directive 2009/138/EC](#)”;
(c) for “Article 94(1) of that Directive” substitute “rule 3.1 of the Own Funds Part of the PRA rulebook”;
(d) for the words from “the delegated acts” to the end substitute “Article 82(3) of the Commission Delegated Regulation (EU) 2015/35 of 10th October 2014 supplementing [Directive 2009/138/EC](#) of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) Text”.
- (46) For point (104) (definition of ‘Tier 2 own-fund insurance items’) substitute—
“(104) ‘Tier 2 own-fund insurance items’ means basic own-fund items of insurance undertakings and reinsurance undertakings where those items are classified in Tier 2 in accordance with rule 3.2 of the Own Funds Part of the PRA rulebook;”.
- (47) In point (105) (definition of ‘Tier 3 own-fund insurance items’)—
(a) for “undertakings subject to the requirements of [Directive 2009/138/EC](#)” substitute “insurance undertakings and reinsurance undertakings”;
(b) for the words from “within the meaning of” to the end substitute “in accordance with rule 3.3 of the Own Funds Part of the PRA rulebook”.
- (48) Omit point (111) (definition of ‘financial undertaking’).
- (49) For point (112) (definition of ‘funds for general banking risk’) substitute—
“(112) ‘funds for general banking risk’ means those amounts which a credit institution decides to put aside to cover the particular risks associated with banking where this is permitted under the applicable accounting framework;”.
- (50) Omit point (127) (definition of ‘cross-guarantee scheme’).
- (51) In point (128) (definition of ‘distributable item’) for “accounts.” substitute “accounts;”.
- (52) After point (128), insert—
“(128A) ‘CRR covered bonds’ means bonds issued by a credit institution which—
(a) has its registered office in the UK; and
(b) is subject by law to special public supervision designed to protect bondholders and in particular protection under which—
(i) sums deriving from the issue of the bond must be invested in conformity with the law in assets;
(ii) during the whole period of validity of the bond, those sums are capable of covering claims attaching to the bond; and
(iii) in the event of failure of the issuer, those sums would be used on a priority basis for the reimbursement of the principal and payment of the accrued interest;

(128B) ‘[Directive 86/635/EEC](#) UK law’ means the law of the United Kingdom or any part of it which immediately before exit day implemented [Directive 86/635/EEC](#), and its implementing measures—

- (i) as they have effect on exit day, in the case of rules made by the FCA or the PRA under the Financial Services and Markets Act 2000; and
- (ii) as amended from time to time, in all other cases.

(128C) ‘internal approaches’ means—

- (a) the internal ratings-based approach referred to in Article 143(1);
- (b) the internal models approach referred to in Article 221;
- (c) the own estimates approach referred to in Article 225;
- (d) the advanced measurement approaches referred to in Article 312(2);
- (e) the internal model method referred to in Article 283 and 363; and
- (f) the internal assessment approach referred to in Article 259(3) of this Regulation;

(128D) ‘SME’ means a micro, small and medium-sized enterprise as defined in Articles 1 to 6 of the Annex to Commission Recommendation 2003/361/EC of 6th May 2003 with the following amendments—

- (a) in article 3 (types of enterprise taken into consideration in calculating staff numbers and financial amounts), in paragraph (5) for “by national or Community rules” substitute “under the law of the United Kingdom (or any part of it)”;
- (b) in article 5 (staff headcount), in paragraph (b) for “national law” substitute “the law of the United Kingdom (or any part of it)”;

(128E) ‘systemically important institution’ means a UK parent institution, a UK parent financial holding company, a UK parent mixed financial holding company or an institution the failure or malfunction of which could lead to systemic risk;

(128F) ‘UK deposit guarantee scheme’ means a deposit protection scheme established by the PRA and managed by the Financial Services Compensation Scheme Limited.”(10).

(53) After paragraph 1, insert—

“(1A) In this Regulation—

- “Bank” means the Bank of England;
- “FCA” means the Financial Conduct Authority;
- “Financial Policy Committee” means the Financial Policy Committee of the Bank;
- “FSMA” means the Financial Services and Markets Act 2000;
- “Part 4A permission” means a permission given by the FCA or PRA under Part 4A of FSMA or having effect as if so given;
- “PRA” means the Prudential Regulation Authority;
- “Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”(11).

Article 4(2) (definitions)

65. In Article 4 (definitions), omit paragraph 2.

(10) In point 128B, [Directive 86/635/EEC](#) of 8th December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions, OJ L. 372, 31.12.1986, p1 - 17.

(11) The Financial Services and Markets Act 2000 c.8; Part 4A inserted by Financial Services Act 2012 c.21; The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, [S.I. 2001/544](#).

Article 4A and 4B (insertion of new paragraphs)

66. After Article 4, insert—

“Article 4A

Definitions: Regulators’ rules

1. In these Regulations—

- (a) a reference to the PRA rulebook is to the rulebook published by the PRA containing rules made by that Authority under FSMA as the rulebook has effect on exit day;
- (b) any reference to a sourcebook is to a sourcebook in the Handbook of Rules and Guidance published by the FCA containing rules made by that Authority under FSMA as the sourcebook has effect on exit day;
- (c) “[Directive 2013/36/EU](#) UK law” means the law of the United Kingdom or any part of it, which was relied on by the United Kingdom immediately before exit day to implement [Directive 2013/36/EU](#) and its implementing measures—
 - (i) as they have effect on exit day, in the case of rules made by the FCA or the PRA under FSMA; and
 - (ii) as amended from time to time, in all other cases.

2. By way of an exception to paragraph 1(c), for the purposes of Articles 4(1)(25), 11(5), 81(1)(ii), 82(a)(ii) and 336(4)(c), and the references to the [Directive 2013/36/EU](#) therein, “[Directive 2013/36/EU](#) UK law” shall mean the law of the United Kingdom or any part of it, which was relied on by the United Kingdom immediately before exit day to implement [Directive 2013/36/EU](#) and its implementing measures as amended from time to time. (12).

Article 4B

Determination of the consolidating supervisor

1. The identity of the consolidating supervisor is to be determined in accordance with paragraph (3) and, where applicable, paragraph (4).

2. In this Article—

“Case 1” means circumstances where a PRA-authorised person is the UK parent institution required by Chapter 2 of Title 2 of Part 1 of the capital requirements regulation to comply with requirements of the regulation on a consolidated basis, other than circumstances falling within Case 3;

“Case 2” means circumstances where an FCA-authorised person is the UK parent institution required by Chapter 2 of Title 2 of Part 1 of the capital requirements regulation to comply with requirements of the regulation on a consolidated basis, other than circumstances falling within Case 3;

“Case 3” means circumstances where a UK parent financial holding company or UK parent mixed financial holding company has a subsidiary institution which is a PRA-authorised person;

“Case 4” means circumstances where none of the institutions controlled by a UK parent financial holding company or UK parent mixed financial holding company which are required by Chapter 2 of Title 2 of Part 1 of the capital requirements

regulation to comply with requirements of the regulation on a consolidated basis, is a subsidiary institution which is a PRA-authorised person.

3. The consolidating supervisor is—

- (a) in Case 1, the PRA;
- (b) in Case 2, the FCA;
- (c) in Case 3, the PRA; and
- (d) in Case 4, the FCA.

4. The FCA and PRA may by agreement vary the determination of the consolidating supervisor provided for in paragraph (3) in its application to particular circumstances.

5. The FCA and PRA may exercise the power in paragraph (4) where they consider that the outcome of paragraph (3) would be inappropriate in the circumstances, having regard to the importance of the activities of the PRA-authorised persons and the FCA-authorised persons concerned.

6. An agreement under paragraph (4) must be in or confirmed in writing.”.

Article 6 (general principles)

67.—(1) Article 6 (general principles) is amended as follows.

(2) In paragraph 2, for “in the Member State where it is authorised and supervised” substitute “authorised and supervised in the United Kingdom”.

(3) In paragraph 4—

- (a) for “points (3) and (6) of Section A of Annex I to [Directive 2004/39/EC](#)” substitute “paragraphs 3 and 6 of Part 3 of Schedule 2 to the Regulated Activities Order”;
- (b) for “Pending the report from the Commission in accordance with Article 508(3), competent authorities” substitute “The competent authority”.

Article 7 (derogation from the application of prudential requirements on an individual basis)

68. In Article 7 (derogation from the application of prudential requirements on an individual basis)—

- (a) in paragraph 1, for “by the Member State concerned” substitute “in the United Kingdom”;
- (b) in paragraph 2, for the words from “where the” to “the institution”, substitute “where the parent undertaking of the subsidiary is a UK financial holding company or a UK mixed financial holding company”;
- (c) in paragraph 3—
 - (i) for “parent institution in a Member State where that institution is subject to authorisation and supervision by the Member State concerned, and” substitute “UK parent institution, where”;
 - (ii) omit the words from “The competent authority which makes” to the end.

Article 8 (derogation from the application of liquidity requirements on an individual basis)

69. In Article 8 (derogation from the application of liquidity requirements on an individual basis)

- (a) in paragraph 1—
 - (i) for “Union” substitute “United Kingdom”;

- (ii) omit the words from “By 1 January” to the end;
- (b) omit paragraphs 2, 3 and 4;
- (c) in paragraph 5—
 - (i) omit “or paragraph 2”;
 - (ii) for “Article 86 of [Directive 2013/36/EU](#), or parts thereof,” both time it occurs, substitute “the relevant regulatory rules”;
 - (iii) at the end insert—

“In this paragraph, “relevant regulatory rules” means—

 - (a) where the competent authority is the FCA, rules 12.3.4, 12.3.5, 12.3.7A, 12.3.8, 12.3.22A, 12.3.22B, 12.3.27, 12.4.-2, 12.4.-1, 12.4.5A, 12.4.10, 12.4.11 and 12.4.11A of the FCA’s Prudential sourcebook for Banks, Building Societies and Investment Firms;
 - (b) where the competent authority is the PRA, rules 3.1, 3.2, 3.3, 4.1(3), 7.2, 8.1(1), 9.2, 11.1, 11.1, 11.4, 12.1, 12.3 and 12.4 of the Internal Liquidity Adequacy Assessment Part of the PRA rulebook.”.

Article 9 (individual consolidation method)

- 70.** In Article 9 (individual consolidation method)—
- (a) in paragraph 1—
 - (i) for “paragraphs 2 and 3” substitute “paragraph 2”;
 - (ii) omit “and to Article 144(3) of [Directive 2013/36/EU](#)”;
 - (b) omit paragraph 3.

Article 10 (waiver for credit institutions permanently affiliated to a central body)

- 71.** Omit Article 10 (waiver for credit institutions permanently affiliated to a central body).

Article 11 (general treatment)

- 72.**—(1) Article 11 (general treatment) is amended as follows.
- (2) In paragraph 1, for “Parent institutions in a Member State” substitute “UK parent institutions”.
 - (3) In paragraph 2—
 - (a) in the first sub-paragraph, for “a parent financial holding company or a parent mixed financial holding company in a Member State” substitute “a UK parent financial holding company or a UK parent mixed financial holding company”;
 - (b) omit the second sub-paragraph.
 - (4) In paragraph 3—
 - (a) for “EU parent institutions, institutions controlled by an EU parent financial holding company and institutions controlled by an EU parent mixed financial holding company” substitute “UK parent institutions, institutions controlled by a UK parent financial holding company and institutions controlled by a UK parent mixed financial holding company”;
 - (b) for “points (3) and (6) of Section A of Annex I to [Directive 2004/39/EC](#)” substitute “paragraphs 3 and 6 of Part 3 of Schedule 2 to the Regulated Activities Order”;
 - (c) for the words from “Pending the report” to “competent authorities” substitute “If the group comprises only investment firms, the competent authority”.

(5) Omit paragraph 4.

(6) In paragraph 5—

(a) for the first sub-paragraph substitute—

“In addition to the requirements of paragraphs 1 to 3, the competent authority may require an institution to comply with the obligations mentioned in the third sub-paragraph on a sub-consolidated basis when—

(a) it is justified for supervisory purposes by the specificities of the risk or the capital structure of the institution, or

(b) the institution is a ring-fenced body within the meaning of section 142A(1) of FSMA.”;

(b) in the second sub-paragraph, omit the words “and shall neither entail” to the end;

(c) after the second sub-paragraph insert—

“The obligations mentioned in this sub-paragraph are those provided for in—

(a) Parts 2, 3, 4, 6, 7 and 8 of this Regulation;

(b) [Directive 2013/36/EU](#) UK law which implemented Title 7, Chapter 4 of [Directive 2013/36/EU](#).”.

Article 13 (application of disclosure requirements on a consolidated basis)

73. In Article 13 (application of disclosure requirements on a consolidated basis)—

(a) in paragraphs 1 and 3, for “EU parent institutions”, in each place it occurs, substitute “UK parent institutions”;

(b) in paragraphs 2 and 3, for “an EU parent financial holding company or EU parent mixed financial holding company”, in each place it occurs, substitute “a UK parent financial holding company or UK parent mixed financial holding company”;

(c) in paragraph 2, in the second sub-paragraph, for “EU parent financial holding companies or EU parent mixed holding companies” substitute “UK parent financial holding companies or UK parent mixed financial holding companies”;

(d) omit paragraph 4.

Article 14 (application of requirements of Part Five on a consolidated basis)

74. In Article 14 (application of requirements of Part Five on a consolidated basis), in paragraph 3, for “the EU parent institution or institutions controlled by an EU parent financial holding company or EU parent mixed financial holding company” substitute “the UK parent institution or institutions controlled by a UK parent financial holding company or a UK parent mixed financial holding company”.

Article 15 (derogation from the application of own funds requirements on a consolidated basis for groups of investment firms)

75. In Article 15 (derogation from the application of own funds requirements on a consolidated basis for groups of investment firms)—

(a) in paragraph 1, after “this Regulation and” insert “[Directive 2013/36/EU](#) UK law which implemented”;

(b) in paragraph 1, for “EU investment firm”, in each place it occurs, substitute “investment firm authorised in the United Kingdom”;

- (c) in paragraph 1, in point (d), for “parent financial holding company in a Member State” substitute “UK parent financial holding company”.

Article 17 (supervision of investment firms waived from the application of own funds requirements on a consolidated basis)

76. In Article 17 (supervision of investment firms waived from the application of own funds requirements on a consolidated basis)—

- (a) in paragraphs 2 and 3, for “the competent authorities responsible for the prudential supervision of the investment firm waive” substitute “the competent authority waives”;
- (b) in paragraph 2, for “a Member State” substitute “the United Kingdom”.

Article 18 (methods for prudential consolidation)

77. Article 18 (methods for prudential consolidation) is amended as follows—

- (a) in paragraph 3, for “relationship within the meaning of Article 12(1) of [Directive 83/349/EEC](#),” substitute “common management relationship”;
- (b) in paragraph 6 for “the method provided for in Article 12 of [Directive 83/349/EEC](#)” substitute “the method which would have been available under Article 22(7) to (9) of [Directive 2013/34/EEC](#), as it had effect immediately before exit day, if the United Kingdom were still a member of the European Union.”;
- (c) in paragraph 8, for “pursuant to Article 111 of [Directive 2013/36/EU](#)” substitute “under this Regulation”.

Article 19 (entities excluded from the scope of prudential consolidation)

78. In Article 19 (entities excluded from the scope of prudential consolidation)—

- (a) in paragraph 2, from the beginning to “[Directive 2013/36/EU](#)” substitute “The consolidating supervisor”;
- (b) in paragraph 2(c), for “the competent authorities responsible for exercising supervision on a consolidated basis” substitute “the consolidating supervisor”.

Article 20 (joint decisions on prudential requirements)

79. In Article 20 (joint decisions on prudential requirements)—

- (a) omit paragraphs 1 to 5;
- (b) in paragraph 6, for “an EU parent institution and its subsidiaries, the subsidiaries of an EU parent financial holding company or an EU parent mixed financial holding company” substitute “a UK parent institution and its subsidiaries, the subsidiaries of a UK parent financial holding company or a UK parent mixed financial holding company”;
- (c) omit paragraphs 7 and 8.

Article 21 (joint decisions on the level of application of liquidity requirements)

80. Omit Article 21 (joint decisions on the level of application of liquidity requirements).

Article 23 (undertakings in third countries)

81. In Article 23 (undertakings in third countries) for “Union” substitute “United Kingdom”.

Article 26 (Common Equity Tier 1 items)

82. In Article 26 (Common Equity Tier 1 items) in paragraph 3—

- (a) in the first sub-paragraph, for “the competent authorities, which may consult EBA” substitute “the competent authority”;
- (b) omit the second sub-paragraph;
- (c) for the third sub-paragraph substitute—
“Each competent authority must establish, maintain and publish a list of all the forms of capital instruments that qualify as Common Equity Tier 1 instruments in the United Kingdom.”;
- (d) omit the fourth sub-paragraph.

Article 27 (capital instruments of mutual, cooperative societies, savings institutions or similar institutions in Common Equity Tier 1 items)

83. In Article 27 (capital instruments of mutual, cooperative societies, savings institutions or similar institutions in Common Equity Tier 1 items)—

- (a) in paragraph 1(a), for “applicable national law” substitute “the applicable law of the United Kingdom, or any part of it,”;
- (b) in paragraph 1, in the words after point (b), for “applicable national law” substitute “the applicable law of the United Kingdom, or any part of it,”;
- (c) in paragraph 2, in the first sub-paragraph, for the words from “the conditions according” to “qualifies” substitute “the types of undertaking that qualify”.

Article 28 (Common Equity Tier 1 instruments)

84. In Article 28(1) (Common Equity Tier 1 instruments)—

- (a) in points (a) and (g), after “applicable national law” insert “of the United Kingdom, or any part of it, or of a third country”;
- (b) in point (c)—
 - (i) for point (i) substitute—
“(i) they qualify as capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors,”;
 - (ii) in point (iii) after “national insolvency law” insert “of the United Kingdom, or any part of it, or of a third country”.

Article 29 (capital instruments issued by mutuals, cooperative societies, savings institutions and similar institutions)

85. In Article 29 (capital instruments issued by mutuals, cooperative societies, savings institutions and similar institutions) in paragraphs 2(a), 2(b), 3 and 6, after “applicable national law” insert “of the United Kingdom, or any part of it, or of a third country”.

Article 31 (capital instruments subscribed by public authorities in emergency situations)

86. In Article 31 (capital instruments subscribed by public authorities in emergency situations)—

- (a) in paragraph 1(b), for “considered State aid by the Commission” substitute “State aid as defined in the law of the United Kingdom after exit day”;
- (b) in paragraph 1(c), after “State aid-rules existing” insert “in the United Kingdom, or any part of it, or in a third country,”;
- (c) omit paragraph 2.

Article 33 (cash flow hedges and changes in the value of own liabilities)

87. In Article 33 (cash flow hedges and changes in the value of own liabilities), in paragraph 3(a), for “in the form of bonds as referred to in Article 52(4) of [Directive 2009/65/EC](#)” substitute “CRR covered bonds”.

Article 36 (deductions from Common Equity Tier 1 items)

88. In Article 36 (deductions from Common Equity Tier 1 items), in paragraph 3, in the first sub-paragraph—

- (a) omit the words from “and, in consultation with” to “24 November 2010,”;
- (b) for the words from “undertakings excluded from” to “of that Directive” substitute “undertakings within Article 4(1)(27)(k) of this Regulation”.

Article 38 (deduction of deferred tax assets that rely on future profitability)

89. In Article 38 (deduction of deferred tax assets that rely on future profitability), in paragraph 3(a), after “applicable national law” insert “of the United Kingdom, or any part of it, or of a third country”.

Article 39 (tax overpayments, tax loss carry backs and deferred tax assets that do not rely on future profitability)

90. In Article 39 (tax overpayments, tax loss carry backs and deferred tax assets that do not rely on future profitability), in paragraph 2—

- (a) in point (b), after “applicable national tax law” insert “of the United Kingdom, or any part of it, or of a third country”;
- (b) in point (c), for “the central government of the Member State in which the institution is incorporated” substitute “the government of the United Kingdom”.

Article 49 (requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied)

91.—(1) Article 49 (requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied) is amended as follows.

- (2) In the heading, for “, supplementary supervision or institutional protection schemes are” substitute “or supplementary supervision is”.
- (3) Omit the second sub-paragraph of paragraph 2.
- (4) Omit paragraph 3.
- (5) In paragraph 4 for “, 2 or 3” substitute “or 2”.

Article 52 (additional Tier 1 instruments)

92. In Article 52 (additional Tier 1 instruments) in paragraph 1 in point (m) after “applicable national law” insert “of the United Kingdom, or any part of it, or of a third country”.

Article 77 (conditions for reducing own funds)

93. In Article 77 (conditions for reducing own funds) in point (a) after “applicable national law” insert “of the United Kingdom, or any part of it, or of a third country”.

Article 78 (supervisory permission for reducing own funds)

94.—(1) Article 78 (supervisory permission for reducing own funds) is amended as follows.

(2) In paragraph 1(b)—

- (a) for “point (6) of Article 128 of [Directive 2013/36/EU](#)” substitute “regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014”(13);
- (b) for “Article 104(3) of [Directive 2013/36/EU](#)” substitute “regulation 34(1) of the Capital Requirements Regulations 2013”(14).

(3) In paragraph 3, after “applicable national law” insert “of the United Kingdom, or any part of it, or of a third country”.

Article 80 (continuing review of quality of own funds)

95. Omit Article 80 (continuing review of quality of own funds).

Article 81 (minority interests that qualify for inclusion in consolidated Common Equity Tier 1 capital)

96. In Article 81 (minority interests that qualify for inclusion in consolidated Common Equity Tier 1 capital), in paragraph 1, for point (a)(ii) substitute—

- “(ii) an undertaking which is subject, by virtue of the applicable national law of the United Kingdom, or any part of it, or of a third country, to the requirements of this Regulation and [Directive 2013/36/EU](#) UK law;”.

Article 82 (qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds)

97. In Article 82 (qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds), for point (a)(ii) substitute—

- “(ii) an undertaking which is subject, by virtue of the applicable national law of the United Kingdom, or any part of it, or of a third country, to the requirements of this Regulation and [Directive 2013/36/EU](#) UK law;”.

Article 84 (minority interests included in consolidated Common Equity Tier 1 capital)

98.—(1) Article 84 (minority interests included in consolidated Common Equity Tier 1 capital) is amended as follows.

(2) In paragraph 1(a), in points (i) and (ii)—

(13) [S.I. 2014/894](#).

(14) [S.I. 2013/3115](#).

- (a) for “Article 104 of [Directive 2013/36/EU](#)” in both places it occurs substitute “regulation 34 of the Capital Requirements Regulations 2013”;
- (b) for “point (6) of Article 128 of [Directive 2013/36/EU](#)” in both places it occurs substitute “regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014”.
- (3) In paragraph 5, in point (c), for “by virtue of the control relationship defined in Article 1 of [Directive 83/349/EEC](#)” substitute “and which is a subsidiary because of section 1162 of the Companies Act 2006”(15).
- (4) Omit paragraph 6.

Article 85 (qualifying Tier 1 instruments included in consolidated Tier 1 capital)

99. In Article 85 (qualifying Tier 1 instruments included in consolidated Tier 1 capital), in paragraph 1, in points (a)(i) and (a)(ii)—

- (a) for “Article 104 of [Directive 2013/36/EU](#)” in both places it occurs substitute “regulation 34 of the Capital Requirements Regulations 2013”;
- (b) for “point (6) of Article 128 of [Directive 2013/36/EU](#)” in both places it occurs substitute “regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014”.

Article 87 (qualifying own funds included in consolidated own funds)

100. In Article 87 (qualifying own funds included in consolidated own funds), in paragraph 1, in points (a)(i) and (a)(ii)—

- (a) for “Article 104 of [Directive 2013/36/EU](#)” in both places it occurs substitute “regulation 34 of the Capital Requirements Regulations 2013”;
- (b) for “point (6) of Article 128 of [Directive 2013/36/EU](#)” in both places it occurs substitute “regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014”.

Article 89 (risk weighting and prohibition of qualifying holdings outside the financial sector)

101. In Article 89 (risk weighting and prohibition of qualifying holdings outside the financial sector), omit paragraph 4.

Article 91 (exceptions)

102. In Article 91 (exceptions), in paragraph 2, for “financial fixed assets as referred to in Article 35(2) of [Directive 86/635/EEC](#)” substitute “participating interests, shares in affiliated undertakings or securities intended for use on a continuing basis in the normal course of an undertaking’s activities”.

Article 95 (own funds requirements for investment first with limited authorisation to provide investment services)

103.—(1) Article 95 (own funds requirements for investment firms with limited authorisation to provide investment services) is amended as follows.

(2) In paragraph 1, for “points (3) and (6) of Section A of Annex I to [Directive 2004/39/EC](#)” substitute “paragraphs 3 and 6 of Part 3 of Schedule 2 to the Regulated Activities Order”.

(15) [2006 c.46](#).

(3) In paragraph 2, for “points (2) and (4) of Section A of Annex I to [Directive 2004/39/EC](#)”, in each place it occurs, substitute “paragraphs 2 and 4 of Part 3 of Schedule 2 to the Regulated Activities Order”.

(4) In paragraph 3, for “laid down in” to the end substitute “provided in rules 2.2.32 and 2.2.33 of the FCA’s Prudential sourcebook for Investment Firms”.

Article 96 (own funds requirements for investment firms which hold initial capital)

104. In Article 96 (own funds requirements for investment firms which hold initial capital)—

- (a) for the heading substitute “Own funds requirements for IFPRU 730K firms”;
- (b) in paragraph 1—
 - (i) the existing wording becomes the first sub-paragraph of paragraph 1;
 - (ii) in the first sub-paragraph for “the following categories of investment firm which hold initial capital in accordance with Article 28(2) of [Directive 2013/36/EU](#)” substitute “the following categories of IFPRU 730K firms”;
 - (iii) after the first sub-paragraph insert a second sub-paragraph—

“In the first sub-paragraph “IFPRU 730K firm” has the meaning given in rule 1.1.11 of the FCA’s Prudential sourcebook for Investment Firms.”;
- (c) In paragraph 3, for the words from “laid down in” to the end substitute “provided in rules 2.2.32 and 2.2.33 of the FCA’s Prudential sourcebook for Investment Firms”.

Article 97 (own funds based on fixed overheads)

105. In Article 97 (own funds based on fixed overheads), in paragraph 1, for “points (2) and (4) of Section A of Annex I to [Directive 2004/39/EC](#)” substitute “paragraphs 2 and 4 of Part 3 of Schedule 2 to the Regulated Activities Order”.

Article 98 (own funds for investment firms on a consolidated basis)

106. In Article 98 (own funds for investment firms on a consolidated basis)—

- (a) in paragraphs 1 and 2, in both places it occurs, for “parent investment firm in a Member State” substitute “UK parent investment firm”;
- (b) after paragraph 2, insert—

“**3.** In this Article “UK parent investment firm” means an investment firm in the United Kingdom which has an institution or financial institution as a subsidiary or which holds a participation in such an institution or financial institution, and which is not itself a subsidiary of another institution authorised in the United Kingdom, or of a financial holding company or mixed financial holding company set up in the United Kingdom.”.

Article 99 (reporting on own funds requirements and financial information)

107.—(1) Article 99 (reporting on own funds requirements and financial information) is amended as follows.

- (2) In paragraph 4, omit “in accordance with Regulation (EU) No 1093/2010”.
- (3) In paragraph 5, in the first sub-paragraph for “Union” substitute “United Kingdom”.
- (4) In paragraph 6—
 - (a) in the first sub-paragraph, for “[Directive 86/635/EEC](#)” substitute “[Directive 86/635/EEC](#) UK law”;

- (b) in the first sub-paragraph, for “shall consult EBA on the extension of” substitute “may extend”.

- (5) Omit paragraph 7.

Article 100 (additional reporting requirements)

108. In Article 100 (additional reporting requirements), in the second sub-paragraph—

- (a) for “EBA shall” substitute “The FCA or the PRA (as the case may be) may”;
- (b) omit “implementing”.

Article 101 (specific reporting requirements)

109. In Article 101 (specific reporting requirements)—

- (a) in paragraph 2, omit the words from “of the home Member State” to “host Member State”;
- (b) omit paragraph 3.

Article 107 (approaches to credit risk)

110. In Article 107(3) (approaches to credit risk), for “Union” substitute “United Kingdom”.

Article 113 (calculation of risk weighted exposure amounts)

111.—(1) Article 113 (calculation of risk weighted exposure amounts) is amended as follows.

(2) In paragraph 6—

- (a) in the first sub-paragraph, for “relationship within the meaning of Article 12(1) of [Directive 83/349/EEC](#)” substitute “common management relationship”;
- (b) for “same Member State as the institution” substitute “United Kingdom”.

(3) Omit paragraph 7.

Article 114 (exposures to central governments or central banks)

112.—(1) Article 114 (exposures to central governments or central banks) is amended as follows.

(2) In paragraph 4, for “Member States’ central governments, and central banks denominated and funded in the domestic currency of that central government and central bank” substitute “the central government of the United Kingdom and the Bank denominated and funded in sterling”.

(3) In paragraph 7, in the first sub-paragraph, for “Union” substitute “United Kingdom”.

Article 115 (exposures to regional governments or local authorities)

113.—(1) Article 115 (exposures to regional governments or local authorities) is amended as follows.

(2) In paragraph 2, for the second sub-paragraph substitute—

“The PRA and FCA must maintain a publicly available database of all regional governments and local authorities within the United Kingdom which the competent authority treats as exposures to the central government of the United Kingdom.”.

(3) In paragraph 4, in the first sub-paragraph, for “Union” substitute “United Kingdom”.

(4) In paragraph 5—

- (a) for “Member States” substitute “United Kingdom”;

- (b) for “the domestic currency of that regional government and local authority” substitute “pounds sterling”.

Article 116 (exposures to public sector entities)

114. In Article 116 (exposures to public sector entities)—

- (a) in paragraph 4—
 - (i) for “in whose jurisdiction they are established” substitute “of the United Kingdom”;
 - (ii) for “of this jurisdiction” substitute “of the United Kingdom”;
- (b) in paragraph 5, in the first sub-paragraph, for “Union” substitute “United Kingdom”.

Article 117 (exposures to multilateral development banks)

115. In Article 117 (exposures to multilateral development banks), omit paragraph 3.

Article 118 (exposures to international organisations)

116. In Article 118 (exposures to international organisations), omit point (f).

Article 119 (exposures to institutions)

117. In Article 119 (exposures to institutions), in paragraph 4—

- (a) in the first sub-paragraph—
 - (i) for “the ECB or by the central bank of a Member State” substitute “the Bank”;
 - (ii) for “the central bank of the Member State in question” substitute “the Bank”;
- (b) for point (a) substitute—
 - “(a) the reserves are held in accordance with national requirements which are, in all material respects, equivalent to those in Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003;”(16).

Article 123 (retain exposures)

118. In Article 123 (retail exposures), in the first sub-paragraph, in point (a), for “small or medium-sized enterprise (SME)” substitute “SME”.

Article 124 (exposures secured by mortgages on immovable property)

119.—(1) Article 124 (exposures secured by mortgages on immovable property) is amended as follows.

(2) In paragraph 1, in the second sub-paragraph, for the words from “in those Member States” to “or regulatory provisions” substitute “, if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value”.

(3) In paragraph 2, in the final sub-paragraph—

- (a) omit the first sentence;
- (b) in the second sentence, for “EBA shall publish the risk weights and criteria that the competent authorities” substitute “The PRA and FCA shall each publish the risk weights and criteria that they”.

(16) Regulation (EC) No 1745/2003 of the European Central Bank of 12 September 2003 on the application of minimum reserves.

- (4) Omit paragraph 5.

Article 125 (exposures fully and completely secured by mortgages on residential property)

120.—(1) Article 125 (exposures fully and completely secured by mortgages on residential property) is amended as follows.

(2) In paragraph 2(d), for the words “in those Member States” to the end substitute “if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value”.

(3) In paragraph 3—

- (a) for “a Member State” substitute “the United Kingdom”;
- (b) for the words from “of that Member State” to “loss rates which” substitute “has determined that loss rates”.

Article 126 (exposures fully and completely secured by mortgages on commercial immovable property)

121.—(1) Article 126 (exposures fully and completely secured by mortgages on commercial immovable property) is amended as follows.

(2) In paragraph 2(d), for the words “in those Member States” to the end substitute “if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value”.

(3) In paragraph 3—

- (a) for “a Member State” substitute “the United Kingdom”;
- (b) for the words from “of that Member State” to “loss rates which” substitute “has determined that loss rates”.

Article 128 (items associated with particular high risk)

122.—(1) Article 128 (items associated with particular high risk) is amended as follows.

(2) In paragraph 2(b)—

- (a) for “AIFs as defined in Article 4(1)(a) of [Directive 2011/61/EU](#)” substitute “UK AIFs, EEA AIFs or third-country AIFs within the meaning of regulation 2(1) of the Alternative Investment Fund Managers Regulations 2013⁽¹⁷⁾”;
- (b) for “required under” substitute “specified in”;

(3) Omit the second and third sub-paragraphs of paragraph 3.

Article 129 (exposures in the form of covered bonds)

123.—(1) Article 129 (exposures in the form of covered bonds) is amended as follows.

(2) In paragraph 1—

- (a) in the opening words, for “bonds as referred to in Article 52(4) of [Directive 2009/65/EC](#) (covered bonds)” substitute “CRR covered bonds”;
- (b) for point (a) substitute—
 - “(a) exposures to or guaranteed by—
 - (i) the central government of the United Kingdom;

⁽¹⁷⁾ [S.I. 2013/1773](#).

- (ii) the Bank;
- (iii) a regional government of the United Kingdom; or
- (iv) a public sector entity or local authority in the United Kingdom;”;
- (c) in point (c) for “Union” substitute “United Kingdom”;
- (d) omit point (d)(ii) and the “or” preceding it;
- (e) omit point (e);
- (f) omit point (f)(ii) and the “or” preceding it (but not the words from “Loans secured by commercial immovable property are eligible” and ending with “claims on the collateral”);
- (g) in the second sub-paragraph for “points (c), (d)(ii) and (f)(ii)” substitute “point (c)”;
- (h) in the third sub-paragraph—
 - (i) omit “, after consulting EBA,”;
 - (ii) for “Member States concerned” substitute “United Kingdom”.
- (3) In paragraphs 3 to 7, for “covered bonds” substitute “CRR covered bonds”.
- (4) In paragraph 5 for “covered bond”, each time it occurs, substitute “CRR covered bonds”.

Article 132 (exposures in the form of units or shares in CIUs)

124. In Article 132 (exposures in the form of units or shares in CIUs), in the first sub-paragraph of paragraph 3—

- (a) in point (a), for “a Member State” substitute “the United Kingdom”;
- (b) in point (a)(i), for “Union law” substitute “the law of the United Kingdom”.

Article 134 (other items)

125. In Article 134 (other items), in paragraph 2, for “[Directive 86/635/EEC](#)” substitute “[Directive 86/635/EEC](#) UK law”.

Article 135 (use of credit assessments by ECAIs)

126. In Article 135 (use of credit assessments by ECAIs), in paragraph 2—

- (a) for “EBA shall publish the list” substitute “The competent authorities must each publish a list”;
- (b) omit the words “in accordance with Article 2(4) and Article 18(3) of Regulation ([EC](#)) [No 1060/2009](#)”.

Article 138 (general requirements)

127. In Article 138 (general requirements)—

- (a) for “if EBA has” substitute “if the competent authority has”;
- (b) for “EBA shall” substitute “The competent authority must”.

Article 142 (definitions)

128.—(1) Article 142 (definitions) is amended as follows.

(2) In paragraph 1(4), in point (b), for “Union”, in both places it occurs, substitute “United Kingdom”.

(3) In paragraph 1(5)—

- (a) for “of the activities listed in Annex I to [Directive 2013/36/EU](#)” substitute “Annex 1 activities”;
- (b) for “in Annex I to [Directive 2004/39/EC](#)” substitute “the activities in Parts 1, 3 and 3A of Schedule 2 to the Regulated Activities Order”.

Article 150 (conditions for permanent partial use)

129.—(1) Article 150 (conditions for permanent partial use) is amended as follows.

(2) In paragraph 1—

(a) in point (d)—

(i) for the opening words, substitute—

“(d) exposures to the central government of the United Kingdom, the Bank, a regional government of the United Kingdom, or a public sector entity or local authority in the United Kingdom, provided—”;

(ii) in paragraph (i), for “that central government and central bank” substitute “the central government and Bank”;

(b) in point (e), for “relationship within the meaning of Article 12(1) of [Directive 83/349/EEC](#)” substitute “common management relationship”;

(c) omit the sub-paragraph after point (j).

(3) Omit paragraph 4.

Article 154 (risk weighted exposure amounts for retail exposures)

130. In Article 154 (risk weighted exposure amounts for retail exposures), in paragraph 4, in the fourth sub-paragraph, omit the words “and shall share” to the end.

Article 160 (probability of default)

131. In Article 160 (probability of default), in paragraph 4, for “EBA”, in both places it occurs, substitute “the competent authority”.

Article 162 (maturity)

132. In Article 162(4) (maturity) for “Union” substitute “United Kingdom”.

Article 164 (loss given default)

133. In Article 164 (loss given default)—

(a) in paragraph 5, omit the second sub-paragraph;

(b) omit paragraph 7.

Article 178 (default of an obligor)

134. In Article 178 (default of an obligor), omit paragraph 7.

Article 192 (definitions)

135. In Article 192 (definitions)—

(a) the existing wording becomes paragraph 1;

(b) after paragraph 1 insert—

“2. For the purposes of this Chapter, references to “institutions” as issuers or eligible credit providers shall also include undertakings established in third countries which would fall within the definition in Article 4 of this Regulation, if they were established in the United Kingdom.”.

Article 197 (eligibility of collateral under all approaches and methods)

136. In Article 197 (eligibility of collateral under all approaches and methods), in paragraphs 1 and 4, for “EBA”, in each place it occurs, substitute “the competent authority”.

Article 199 (additional eligibility for collateral under the IRB Approach)

137.—(1) Article 199 (additional eligibility for collateral under the IRB Approach) is amended as follows.

- (2) In paragraph 3—
 - (a) for “a Member State” substitute “the United Kingdom”;
 - (b) omit “of that Member State”.
- (3) In paragraph 4—
 - (a) for “a Member State” substitute “the United Kingdom”;
 - (b) omit “of that Member State”.
- (4) In paragraph 8, for “EBA” substitute “The PRA and the FCA”.

Article 201 (eligibility of protection providers under all approaches)

138. In Article 201 (eligibility of protection providers under all approaches), in paragraph 2, in the second sub-paragraph, omit the words from “, and share their list” to the end.

Article 202 (eligibility of protection providers under the IRB Approach which qualify for the treatment set out in Article 153(3))

139. In Article 202 (eligibility of protection providers under the IRB Approach which qualify for the treatment set out in Article 153(3)), in the first sub-paragraph, in point (b), for “EBA” substitute “the competent authority”.

Article 212 (requirements for other funded credit protection)

- 140.** In Article 212 (requirements for other funded credit protection) in paragraph 2(j)—
- (a) for “is subject to [Directive 2009/138/EC](#)” insert “is an insurance undertaking or reinsurance undertaking”;
 - (b) for “Union” substitute “United Kingdom”.

Article 224 (supervisory volatility adjustment under the Financial Collateral Comprehensive Method)

141. In Article 224 (supervisory volatility adjustment under the Financial Collateral Comprehensive Method), in paragraph 3, in the first sub-paragraph, for “EBA” substitute “the competent authority”.

Article 227 (conditions for applying a 0% volatility adjustment under the Financial Collateral Comprehensive Method)

142. In Article 227 (conditions for applying a 0% volatility adjustment under the Financial Collateral Comprehensive Method), in paragraph 3(c), for “within the meaning of points (25)(b) and (d) of Article 13 of [Directive 2009/138/EC](#)” substitute “that are an insurance undertaking or reinsurance undertaking, an insurance holding company (as defined in the Solvency 2 Regulations 2015), or a mixed financial holding company”.

Article 229 (valuation principles for other eligible collateral under the IRB approach)

143. In Article 229 (valuation principles for other eligible collateral under the IRB approach), in the paragraph 1, in the second sub-paragraph, for the words from “In those Member States” to “regulatory provisions” substitute “If rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value”.

Article 230 (calculating risk-weighted exposures amounts and expected loss amounts for other eligible collateral under the IRB Approach)

144. In Article 230 (calculating risk-weighted exposures amounts and expected loss amounts for other eligible collateral under the IRB approach), in paragraph 3, for “a Member State” substitute “the United Kingdom”.

Article 277 (transactions with a linear risk profile)

145. In Article 277 (transactions with a linear risk profile), in paragraph 3, for “the currency of the home Member State” substitute “pounds sterling”.

Article 290 (stress testing)

146. In Article 290(3) (stress testing)—

- (a) the existing wording becomes the first sub-paragraph;
- (b) in the first sub-paragraph, for “process set out in Article 81 of [Directive 2013/36/EU](#)” substitute “relevant regulatory rules”;
- (c) after the first sub-paragraph insert a second sub-paragraph—
 - “In the first sub-paragraph, “relevant regulatory rules” means—
 - (a) where the competent authority is the FCA, rule 2.2.22 of the FCA’s Prudential sourcebook for Investment Firms;
 - (b) where the competent authority is the PRA, rule 6.1 of the Internal Capital Adequacy Part of the PRA rulebook.”.

Article 292 (integrity of the modelling process)

147. In Article 292 (integrity of the modelling process), omit paragraph 10.

Article 295 (recognition of contractual netting as risk-reducing)

148. In Article 295 (recognition of contractual netting as risk-reducing), in the first sub-paragraph, in point (c), omit the words “Competent authorities shall report to EBA a list of the contractual cross-product netting agreements approved.”.

Article 296 (recognition of contractual netting agreements)

149. In Article 296 (recognition of contractual netting agreements), in paragraph 2, in the second sub-paragraph—

- (a) omit “any of”;
- (b) omit “Competent authorities shall inform each other accordingly.”.

Article 299 (items in the trading book)

150. In Article 299 (items in the trading book), in paragraph 1, for “point (8) of Section C of Annex I to [Directive 2004/39/EC](#)” substitute “paragraph 8 of Part 1 of Schedule 2 to the Regulated Activities Order”.

Article 311 (own funds requirements for exposures to CCPs that cease to meet certain conditions)

151. In Article 311 (own funds requirements for exposures to CCPs that cease to meet certain conditions), in paragraph 2, for “its Member State” in both places where it occurs substitute “the United Kingdom”.

Article 312 (permission and notification)

152. In Article 312 (permission and notification), in paragraph 1, in the first sub-paragraph—

- (a) after “standards set out in” insert “[Directive 2013/36/EU](#) UK law which implemented”;
- (b) for “of [Directive 2013/36/EU](#)” substitute “of that Directive”.

Article 315 (own funds requirement)

153. In Article 315 (own funds requirement), in paragraph 3, omit “and shall duly inform EBA thereof”.

Article 316 (relevant indicator)

154. In Article 316 (relevant indicator), in both the opening words of paragraph 1 and in paragraph 2, for “[Directive 86/635/EEC](#)” substitute “[Directive 86/635/EEC](#) UK law”.

Article 317 (own funds requirement)

155. In Article 317 (own funds requirement), in paragraph 4, in the second sub-paragraph, omit “and shall duly inform EBA thereof”.

Article 323 (impact of insurance and other risk transfer mechanisms)

156. In Article 323 (impact of insurance and other risk transfer mechanisms), in paragraph 2, for “EBA” substitute “the competent authorities”.

Article 325 (allowances for consolidated requirements)

157. In Article 325(3)(a) (allowances for consolidated requirements), omit “recognised”.

Article 327 (netting)

158. In Article 327(2) (netting), omit the words from “Such approaches or own funds requirements” to the end.

Article 329 (options and warrants)

159. In Article 329 (options and warrants), omit paragraph 4.

Article 336 (own funds requirements for non-securitisation debt instruments)

160.—(1) Article 336 (own funds requirements for non-securitisation debt instruments) is amended as follows.

(2) In paragraph 4, in the first sub-paragraph—

(a) in point (a)(iii)—

(i) for “a Member State” substitute “the United Kingdom”;

(ii) for “the relevant Member State” substitute “the United Kingdom”;

(b) in point (c), for “[Directive 2013/36/EU](#)” substitute “[Directive 2013/36/EU](#) UK law”.

Article 340 (duration-based calculation of general risk)

161. In Article 340 (duration-based calculation of general risk), in paragraph 3, in the second sub-paragraph, omit the words from “EBA shall” to the end.

Article 344 (stock indices)

162. In Article 344 (stock indices), omit paragraph 2.

Article 349 (general criteria for CIUs)

163. In Article 349 (general criteria for CIUs), in point (f), for “[Directive 2009/65/EC](#)” substitute “United Kingdom legislation which implemented [Directive 2009/65/EC](#)”.

Article 354 (closely correlated currencies)

164. In Article 354 (closely correlated currencies), omit paragraph 4.

Article 365 (VaR and stressed VaR calculation)

165. In Article 365 (VaR and stressed VaR calculation), in paragraph 2, omit the words from “EBA shall” to the end.

Article 372 (requirement to have an internal IRC model)

166. In Article 372 (requirement to have an internal IRC model), omit “EBA shall issue guidelines on the requirements in Articles 373 to 376.”.

Article 377 (requirements for an internal model for correlation trading)

167. In Article 377 (requirements for an internal model for correlation trading), in paragraph 5, omit the words from “EBA shall” to the end.

Article 382 (scope)

168.—(1) Article 382 (scope) is amended as follows.

(2) In paragraph 4, in the first sub-paragraph, in point (b), for the words from “unless Member States” to the end substitute “, unless the competent authority requires intragroup transactions between structurally separated institutions to be included in the own funds requirements;”.

(3) Omit the first sub-paragraph of paragraph 5.

Article 383 (advanced method)

169. In Article 383 (advanced method), in paragraph 5, in point (c), omit the words “EBA shall” to the end.

Article 391 (definition of an institution for large exposures purposes)

170. In Article 391 (definition of an institution for large exposures purposes), for “Union”, in both places it occurs, substitute “United Kingdom”.

Article 395 (limits to large exposures)

171.—(1) Article 395 (limits to large exposures) is amended as follows.

(2) In paragraph 1—

(a) in the second sub-paragraph, for “Article 81 of [Directive 2013/36/EU](#)” substitute “applicable regulatory rules”;

(b) in the third sub-paragraph, omit “and shall inform EBA and the Commission thereof”.

(3) After paragraph 1 insert—

“**1A.** In the second sub-paragraph of paragraph 1 and in Article 400(3) “applicable regulatory rules” means—

(a) where the competent authority is the FCA, rule 2.2.22 of the FCA’s Prudential sourcebook for Investment Firms;

(b) where the competent authority is the PRA, rule 6.1 of the Internal Capital Adequacy Part of the PRA rulebook.”

(4) Omit paragraph 2.

(5) In paragraph 4, omit “recognised”.

(6) In paragraph 6—

(a) for the first sub-paragraph substitute—

“In this paragraph “structural measures” means measures adopted and implemented by the competent authority that require credit institutions authorised in the United Kingdom to reduce their exposures to different legal entities depending on their activities, irrespective of where those activities are located, with a view to protecting depositors and preserving financial stability.”;

(b) in the second sub-paragraph for the words from the beginning to “deposit-guarantee schemes” substitute “Despite paragraph 1 and Article 401(1)(f), the competent authority may require the institutions of a banking group subject to structural measures which hold deposits that are covered by the UK deposit guarantee scheme”;

(c) in the fourth sub-paragraph, omit the words “and shall not entail” to the end.

(7) Omit paragraphs 7 and 8.

Article 396 (compliance with large exposures requirements)

172. In Article 396 (compliance with large exposures requirements), in paragraph 2, for “parent institutions in a Member State” substitute “UK parent institutions”.

Article 400 (exemptions)

173.—(1) Article 400 (exemptions) is amended as follows.

(2) In paragraphs 1(e) and 2(b), for “Member States” substitute “the United Kingdom”.

(3) For paragraph 1(k) substitute—

“(k) exposures to the UK deposit guarantee scheme arising from the funding of that scheme.”.

(4) In paragraph 3—

(a) in the first sub-paragraph, in point (b), for “Article 81 of [Directive 2013/36/EU](#)” substitute “applicable regulatory rules (within the meaning of Article 395(1A))”;

(b) omit the second sub-paragraph.

Article 402 (exposures arising from mortgage lending)

174. In Article 402 (exposures arising from mortgage lending)—

(a) in paragraphs 1 and 2, for “in those member States” to “or regulatory provisions” substitute “if rigorous criteria are in force at the time in the United Kingdom for the assessment of the mortgage lending value”;

(b) in paragraphs 1(a) and 2(a), omit “of the Member States”.

Article 411 (definitions)

175. In Article 411 (definitions), in point (1), for “activities listed in Annex I to [Directive 2013/36/EU](#)” substitute “Annex 1 activities”.

Article 412 (liquidity coverage requirements)

176. In Article 412 (liquidity coverage requirement), omit paragraph 5.

Article 413 (stable funding)

177. In Article 413 (stable funding), omit paragraph 3.

Article 415 (reporting obligation and reporting format)

178.—(1) Article 415 (reporting obligation and reporting format) is amended as follows.

(2) In paragraph 1—

(a) in the first sub-paragraph—

(i) omit the words from “Until the liquidity” to “set in Title II and Annex III”;

(ii) omit “and Annex III” where it next occurs;

(b) in the second sub-paragraph, for “EBA” substitute “the competent authority”.

(3) In paragraph 2—

(a) omit “of the home Member State”;

(b) omit point (b) and the “; or” preceding it.

- (4) Omit paragraphs 4 to 6.

Article 416 (reporting on liquid assets)

179.—(1) Article 416 (reporting on liquid assets) is amended as follows.

(2) In paragraph 1—

(a) in point (c)(i)—

(i) for “a Member State” substitute “the United Kingdom”;

(ii) for “that Member State” substitute “the United Kingdom”;

(b) in point (c)(iii), omit “, the Commission”;

(c) omit the second sub-paragraph.

(3) In paragraph 2—

(a) in point (a)(i), for “as established by” to the end substitute “as set out in Commission Delegated Regulation (EU) 2015/61”(18);

(b) in point (a)(ii), for “bonds as referred to in Article 52(4) of [Directive 2009/65/EC](#)” substitute “CRR covered bonds”;

(c) in point (a)(iii), for “a Member State central or regional government” substitute “the central or a regional government of the United Kingdom”;

(d) in point (c)(v), for “activities listed in Annex I to [Directive 2013/36/EU](#)” substitute “Annex 1 activities”.

(4) In paragraph 3, in point (d), for “a central bank in a Member State” substitute “the Bank”.

(5) Omit paragraph 4.

Article 419 (currencies with constraints on the availability of liquid assets)

180.—(1) Article 419 (currencies with constraints on the availability of liquid assets) is amended as follows.

(2) In paragraph 1—

(a) for “EBA” substitute “The competent authority”;

(b) for “Union” substitute “United Kingdom”.

(3) In paragraph 2(b)—

(a) for “a Member State” substitute “the United Kingdom”;

(b) for “the central Bank of that Member State or third country” substitute “the central banks”;

(c) for “that Member State” in the last two places it occurs substitute “the United Kingdom”.

Article 420 (liquidity outflows)

181. In Article 420 (liquidity outflows)—

(a) omit paragraph 1;

(b) in paragraph 2 omit the third sub-paragraph.

(18) Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions.

Article 421 (outflows on retail deposits)

182. In Article 421 (outflows on retail deposits)—

- (a) in paragraph 1, for “a Deposit Guarantee Scheme in accordance with [Directive 94/19/EC](#)” substitute “the UK deposit guarantee scheme”;
- (b) omit paragraph 3.

Article 422 (outflows on other liabilities)

183.—(1) Article 422 (outflows on other liabilities) is amended as follows.

(2) In paragraph 2(d), for “the central government” to “branch, or” substitute “the central government of the United Kingdom, a public sector entity of the United Kingdom or”.

(3) In paragraphs 3 and 5, for “a Deposit Guarantee Scheme in accordance with [Directive 94/19/EC](#)” substitute “the UK deposit guarantee scheme”.

(4) In paragraph 3, omit point (b).

(5) In paragraph 4, omit the second sub-paragraph.

(6) In paragraph 8—

- (a) in point (a)(ii), for “relationship within the meaning of Article 12(1) of [Directive 83/349/EEC](#)” substitute “common management relationship”;
- (b) omit point (a)(iii);
- (c) in point (d), for “same Member State” substitute “United Kingdom”.

(7) Omit paragraph 9.

(8) Omit paragraph 10.

Article 424 (outflows from credit and liquidity facilities)

184. In Article 424 (outflows from credit and liquidity facilities), in paragraph 6—

- (a) for “at least one Member State’s central or regional government” substitute “the central or a regional government of the United Kingdom”;
- (b) omit “Union and/or that Member State’s”.

Article 425 (inflows)

185.—(1) Article 425 (inflows) is amended as follows.

(2) In paragraph 1—

- (a) omit “or (7)”;
- (b) for “bonds as referred to in Article 52(4) of [Directive 2009/65/EC](#)” substitute “CRR covered bonds”;
- (c) for “relationship within the meaning of Article 12(1) of [Directive 83/349/EEC](#)” substitute “common management relationship”.

(3) In paragraph 4—

- (a) in point (b), for “relationship within the meaning of Article 12(1) of [Directive 83/349/EEC](#)” substitute “common management relationship”;
- (b) in point (b), omit the words “or a member of the same institutional protection” to the end;
- (c) in point (d), for “same Member State” substitute “United Kingdom”.

(4) Omit paragraph 5.

(5) Omit paragraph 6.

Article 427 (items providing stable funding)

186. In Article 427(1) (items providing stable funding)—

- (a) in point (b)(iv), for “a deposit guarantee scheme in accordance with [Directive 94/19/EC](#)” substitute “the UK deposit guarantee scheme”;
- (b) omit point (b)(v);
- (c) in point (b)(x), for “as referred to in Article 52(4) of [Directive 2009/65/EC](#)” substitute “CRR covered bonds”.

Article 428 (items requiring stable funding)

187. In Article 428 (items requiring stable funding), in paragraph 1, point (h)(iii), for “bonds as referred to in Article 52(4) of [Directive 2009/65/EC](#)” substitute “CRR covered bonds”.

Article 429 (calculation of the leverage ratio)

188. In Article 429 (calculation of the leverage ratio), in paragraph 13, for the words from “Where national” to “may be excluded” substitute “Fiduciary assets on balance sheet may be excluded”.

Article 430 (reporting requirement)

189. In Article 430(1) (reporting requirement)—

- (a) in the first sub-paragraph, for “Article 97 of [Directive 2013/36/EU](#)” substitute “regulation 34A of the Capital Requirements Regulations 2013”(19).
- (b) omit the second and third sub-paragraphs.

Article 432 (non-material, proprietary or confidential information)

190. In Article 432 (non-material, proprietary or confidential information)—

- (a) in paragraph 1, omit the third sub-paragraph;
- (b) in paragraph 2, omit the fourth sub-paragraph.

Article 433 (frequency of disclosure)

191. In Article 433 (frequency of disclosure), omit the fourth sub-paragraph.

Article 436 (scope of application)

192. In Article 436 (scope of application), omit “in accordance with [Directive 2013/36/EU](#)”.

Article 438 (capital requirements)

193. In Article 438 (capital requirements)—

- (a) in the opening words, for “Article 73 of [Directive 2013/36/EU](#)” substitute “rules 3.1(1)(a) and 3.4 of the Internal Capital Adequacy Assessment Part of the PRA rulebook and rules 2.2.7R and 2.2.13R of the FCA Prudential Sourcebook for Investment Firms”;

(19) [S.I. 2013/3115](#).

- (b) in point (b), for “point (a) of Article 104(1) of [Directive 2013/36/EU](#)” substitute “regulation 34(1) of the Capital Requirements Regulations 2013”.

Article 440 (capital buffers)

194. In Article 440 (capital buffers), in paragraph 1, for “in Title VII, Chapter 4 of the [Directive 2013/36/EU](#)”, substitute “in regulation 2 of the Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulation 2014”.

Article 441 (indicators of global systemic importance)

195. In Article 441 (indicators of global systemic importance)—

- (a) in paragraph 1—
- (i) for “in accordance with Article 131 of [Directive 2013/36/EU](#)” substitute “by virtue of Part 4 of Capital Requirements (Capital Buffers and Macro-prudential Measures) Regulations 2014”(20);
- (ii) for “that Article” substitute “regulation 23 of those Regulations”;
- (b) in paragraph 2, in the first sub-paragraph, for “EBA shall take” substitute “the FCA or the PRA (as the case may be) must take”.

Article 443 (unencumbered assets)

196. In Article 443 (unencumbered assets)—

- (a) omit the first sub-paragraph;
- (b) in the second sub-paragraph, omit the words “, taking into account” to the end.

Article 444 (use of ECAIs)

197. In Article 444 (use of ECAIs), in point (d), for “EBA” substitute “the competent authority”.

Article 450 (remuneration policy)

198.—(1) Article 450 (remuneration policy) is amended as follows.

(2) In paragraph 1(d), for “Article 94(1)(g) of [Directive 2013/36/EU](#)” substitute “rules 15.09 to 15.13 of the Remuneration Part of the PRA rulebook and rules 19A.3.44R to 44DR and 19D.3.48R to 52R of the Senior Management Arrangements, Systems and Controls sourcebook of the FCA Handbook”.

(3) In paragraph 1(j), for “the Member State or competent authority,” substitute “the PRA or FCA”.

(4) In paragraph 2, in the second sub-paragraph, for “[Directive 95/46/EC](#)” substitute “the General Data Protection Regulation (EU) 2016/679”.

Article 452 (use of the IRB Approach to credit risk)

199. In Article 452 (use of the IRB Approach to credit risk), for the third sub-paragraph substitute—

- “For the purposes of point (j), the “relevant geographical location of credit exposures” means—
- (a) exposures in the United Kingdom; or

(20) [S.I. 2014/894](#).

- (b) exposures in a third country in which the institution carries out activities through a branch or a subsidiary.”.

Heading of Part 9

200. For the heading of Part 9 substitute “Regulations, enhanced prudential measures and technical standards”.

Article 458 (macroprudential or systemic risk identified at the level of a Member State)

201. For Article 458 (macroprudential or systemic risk identified at the level of a Member State) substitute—

“Article 458

Enhanced prudential measures directions & recommendations: Interpretation

1. In this Article and in Articles 458A to 458C—

‘enhanced prudential measures direction’ means a direction of the Financial Policy Committee under section 9H of the 1998 Act to a competent authority describing stricter measures in relation to a relevant prudential area than are required by this Regulation or any legislation made under it;

‘enhanced prudential measures recommendation’ means a recommendation of the Financial Policy Committee under section 9Q of the 1998 Act to a competent authority, describing stricter measures in relation to a relevant prudential area than are required by this Regulation or any legislation made under it;

‘enhanced prudential implementation action’ means action to comply with an enhanced prudential measures direction or enhanced prudential measures recommendation;

‘FPC’ means the Financial Policy Committee;

‘regulated person’ has the meaning given in section 9H(2) of the 1998 Act;

‘relevant prudential area’ means—

- (i) the level of own funds provided for in Article 92,
- (ii) the requirements for large exposures provided for in Articles 392 and 395 to 403,
- (iii) the public disclosure requirements provided for in Articles 431 to 455,
- (iv) liquidity requirements provided for in Part 6 or in the Liquidity Commission Delegated Regulation,
- (v) risk weights for targeting asset bubbles in the residential and commercial property sector, or
- (vi) intra financial sector exposures.

‘the 1998 Act’ means the Bank of England Act 1998⁽²¹⁾;

‘the Liquidity Commission Delegated Regulation’ means Commission Delegated Regulation (EU) 2015/61 of 10th October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions, as it forms part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018, and as amended from time to time thereafter.

(21) 1998 c. 11.

Article 458A

Enhanced prudential measures

1. Where the FPC issues an enhanced prudential measure direction or enhanced prudential measure recommendation, the competent authority may exercise its functions to introduce an enhanced prudential implementation action.
2. An enhanced prudential implementation action shall have effect notwithstanding any provision to the contrary in this Regulation or any legislation made under it.

Article 458B

Enhanced prudential measures: effect of revocation

1. Paragraph 2 applies where—
 - (a) the FPC revokes an enhanced prudential measures direction in accordance with section 9J of the 1998 Act; or
 - (b) the FPC withdraws an enhanced prudential measures recommendation and notifies the competent authority of that withdrawal.
2. A competent authority which has introduced an enhanced prudential implementation action must consider whether it is appropriate to cease to implement that action.

Article 458C

Enhanced prudential measures: publication and application

1. Once the Bank has published the relevant information concerning the enhanced prudential measure direction or enhanced prudential measure recommendation in accordance with section 9U and, where relevant, section 9V(3) of the 1998 Act, a competent authority must publish on its website the following information—
 - (a) the fact that it has introduced an enhanced prudential implementation action;
 - (b) any requirements of this Regulation or any delegated legislation made under it that the competent authority considered inconsistent with the enhanced prudential implementation action; and
 - (c) a statement that the relevant enhanced prudential implementation action shall have effect notwithstanding any provision to the contrary in this Regulation or any legislation made under it.
2. Until the Bank has published the relevant information concerning the enhanced prudential measure direction or enhanced prudential measure recommendation in accordance with section 9U and, where relevant, section 9V(3) of the 1998 Act, the competent authority must take reasonable steps to bring the enhanced prudential implementation action to the attention of the regulated persons subject to it.
3. A failure by the competent authority to publish information as required by paragraph 1 does not affect the validity, continuing operation or enforcement of the enhanced prudential implementation action to which the requirement to publish relates.”.

Article 462 (exercise of the delegation)

- 202.** Omit Article 462 (exercise of the delegation).

Article 463 (objections to regulatory technical standards)

203. Omit Article 463 (objections to regulatory technical standards).

Article 464 (European Banking Committee)

204. Omit Article 464 (European Banking Committee).

Article 464A and 464B (insertion of new paragraphs)

205. After Article 464 insert—

*“Article 464A**Regulations: general provisions*

1. Any power to make regulations conferred on the Treasury by this Regulation, is exercisable by statutory instrument.
2. Such regulations may—
 - (a) contain incidental, supplemental, consequential and transitional provision, and
 - (b) may make different provision for different purposes.
3. A statutory instrument containing regulations made under Article 456 of this Regulation may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
4. A statutory instrument containing regulations made under any other provision of this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

*Article 464B**Power to make technical standards*

1. Where a power to make technical standards is conferred on both the FCA and PRA it is exercisable—
 - (a) by the PRA, in respect of PRA-authorised persons within the meaning of section 2B(5) of FSMA;
 - (b) by the FCA in respect of any other person.
2. In addition to the powers to make technical standards set out elsewhere in this Regulation, the PRA and FCA may both make technical standards for the following purposes—
 - (a) to specify—
 - (i) the information to be provided to the relevant competent authority in the application for authorisation of a credit institution under Part 4A of FSMA;
 - (ii) the requirements applicable to shareholders and members with qualifying holdings; and
 - (iii) obstacles which may prevent effective exercise of the supervisory functions of the competent authority;
 - (b) to define what is meant by ‘exposures to specific risk which are material in absolute terms’ and the thresholds for large numbers of material counterparties and positions in debt instruments of different issuers;

- (c) to specify—
 - (i) the procedure for sharing assessments of the quality of institutions’ internal approaches for calculating own funds requirements between competent authorities;
 - (ii) the standards for the assessment of the quality of institutions’ internal approaches for calculating own funds requirements by competent authorities;
- (d) to specify—
 - (i) the template, the definitions and the IT-solutions to be applied in the UK for institutions to report the results of the calculations of their internal approaches for their exposures or positions that are included in their benchmark portfolios;
 - (ii) the benchmark portfolio or portfolios which institutions must report;
- (e) to specify the classes of instruments that can be fully converted to Common Equity Tier 1 instruments or written down, and qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on the institution’s risk profile;
- (f) to specify the method for the identification of the geographical location of an institution’s credit exposures for the purposes of calculating institution-specific countercyclical capital buffer rates.

3. In addition to the powers to make technical standards set out elsewhere in this Regulation, the PRA alone may make technical standards to specify—

- (a) the methodology in accordance with which the PRA shall identify a UK parent institution or UK parent financial holding company or UK parent mixed financial holding company as a global systemically important institution (‘G-SII’); and
- (b) the methodology for the definition of the sub-categories and the allocation of G-SIIs in sub-categories based on their systemic significance; taking into account any international agreed standards.”(22).

Article 473a (introduction of IFRS 9)

206.—(1) Article 473a (introduction of IFRS 9) is amended as follows.

(2) In paragraph 1(c), for “[Directive 86/635/EEC](#)” substitute “[Directive 86/635/EEC UK law](#)”.

(3) In paragraph 7, for “laid down in this Regulation and in [Directive 2013/36/EU](#)” substitute “imposed by or under this Regulation or [Directive 2013/36/EU UK law](#)”.

(4) Omit paragraph 10.

Article 483 (grandfathering of State aid instruments)

207. In Article 483 (grandfathering of State aid instruments)—

- (a) in paragraph 1(b)—
 - (i) before “State aid rules” insert “European Union”;

(22) The powers in paragraph 2(a) are transferred from Article 8(2) of [Directive 2013/36/EU](#), the powers in paragraph 2(b) are transferred from Article 77(4) of [Directive 2013/36/EU](#), the powers in paragraph 2(c) are transferred from Article 78(7) of [Directive 2013/36/EU](#), the powers in paragraph 2(d) are transferred from Article 78(8) of [Directive 2013/36/EU](#), the powers in paragraph 2(e) are transferred from Article 94(2) of [Directive 2013/36/EU](#), the powers in paragraph 2(f) are transferred from Article 140(7) of [Directive 2013/36/EU](#), and the powers in paragraph 3 are transferred from Article 131(18) of [Directive 2013/36/EU](#).

- (ii) after “Member State” insert “or the United Kingdom”;
- (b) in the wording after paragraph 1(c), after “Member State” each time it occurs, insert “or the United Kingdom”;
- (c) in paragraph 1(c), before “Commission” insert “European”.

Article 484 (eligibility for grandfathering of items)

208. In Article 484(3) (eligibility for grandfathering of items) for “capital within the meaning of Article 22 of [Directive 86/635/EEC](#)” substitute “capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors”.

Article 485 (eligibility for inclusion in Common Equity Tier 1)

209. In Article 485(2) (eligibility for inclusion in Common Equity Tier 1) for “capital within the meaning of Article 22 of [Directive 86/635/EEC](#)” substitute “capital, which for these purposes comprises all amounts, regardless of their actual designations, which, in accordance with the legal structure of the institution concerned, are regarded under the applicable law of the United Kingdom, or any part of it, or of a third country, as equity capital subscribed by the shareholders or other proprietors”.

Article 493 (transitional provisions for large exposures)

210.—(1) Article 493 (transitional provisions for large exposures) is amended as follows.

(2) In paragraph 1—

- (a) for “points 5, 6, 7, 9 and 10 of Section C of Annex I to [Directive 2004/39/EC](#)” substitute “paragraphs 5, 6, 7, 9 and 10 of Part 1 of Schedule 2 to the Regulated Activities Order”;
- (b) omit from “or the date of entry” until the end.

(3) In paragraph 3—

- (a) for the first sub-paragraph substitute—

“**3.** By way of derogation from Article 400(2) and (3), the Treasury may, for a transitional period ending on 3 January 2029, make regulations fully or partially exempting the following exposures from the application of Article 395(1)—;”;

- (b) in point (b), for “Member States” substitute “the United Kingdom”.

(4) In paragraph 5—

- (a) in points (a) to (c), for “central governments, central banks, or public sector entities of Member States” substitute “the central government of the United Kingdom, the Bank, or public sector entities of the United Kingdom”;
- (b) in points (d) and (e), for “Member States” substitute “the United Kingdom”.

Article 497 (own funds requirements for exposures to CCPs)

211.—(1) Article 497 (own funds requirements for exposures to CCPs) is amended as follows.

(2) Omit paragraph 1.

(3) In paragraph 2—

- (a) for the words “Until 15 months” to “Regulation (EU) No 648/2012” substitute “Until 15 December 2020”;

- (b) for “of that Regulation” insert “of Regulation (EU) No 648/2012”(23).
- (4) In paragraph 4, for “paragraphs 1 and 2” substitute “paragraph 2”.

Article 498 (exemption for Commodities dealers)

212. In Article 498 (exemption for Commodities dealers), in paragraph 1, for “points 5, 6, 7, 9 and 10 of Section C of Annex I to [Directive 2004/39/EC](#)” substitute “paragraphs 5, 6, 7, 9 and 10 of Part 1 of Schedule 2 to the Regulated Activities Order”.

Article 501 (capital requirements deduction for credit risk on exposures to SMEs)

213. In Article 501(2) (capital requirements deduction for credit risk on exposures to SMEs), for point (b), substitute—

- “(b) an SME is defined as set out in Article 4(1)(128D) of this Regulation, save that in Article 2 of the Annex to Commission Recommendation 2003/361/EC only the annual turnover shall be taken into account;”.

Article 502 to 519 (reports and reviews)

214. Omit Title 2 of Part 10 (reports and reviews), consisting of Articles 502 to 519.

Article 521 (entry into force and date of application)

215. After Article 521 (entry into force and date of application) omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Article 522 (insertion of new paragraph)

216. After Article 521 insert—

“Article 522

Savings provisions: pre-exit decisions

- 1.** Where a decision of the type set out in paragraph 2 is made before exit day by a body other than the PRA or FCA—
 - (a) that decision shall continue to have effect on and after exit day;
 - (b) the PRA and FCA shall have the same powers in respect of that decision on and after exit day as if it was a decision taken by the PRA in relation to a PRA-
authorised person and the FCA in relation to any other person; and
 - (c) those powers shall include the power to review, vary, modify or revoke the decision.
- 2.** The types of decision are—
 - (a) in respect of applications for the permissions referred to in Articles 143(1), 143(3), 151(4), 151(9), 283, 312(2) and 363 of Regulation No 575/2013, a decision whether or not to grant the permission sought and to determine the terms and conditions pursuant to which any such permission should be subject, where that decision has been made—

(23) Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

- (i) jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or
 - (ii) by the consolidating supervisor in accordance with Article 20(4) of Regulation No 575/2013;
- (b) a decision whether the criteria for a specific intragroup treatment referred to in Articles 422(9) and 425(4) of Regulation No 575/2013 are met, where that decision has been made—
 - (i) jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or
 - (ii) by the competent authority responsible for the supervision of the subsidiary on an individual basis in accordance with Article 20(5) of Regulation No 575/2013;
- (c) a decision on whether the conditions in points (a) to (d) of Article 8(1) of Regulation No 575/2013 are met and identifying a single liquidity sub-group for the application of Article 8 of Regulation No 575/2013 (including where that decision also imposes constraints on the locations and ownership of liquid assets and requires minimum amounts of liquid assets to be held by institutions that are exempt from the application of Part 6), where that decision has been made—
 - (i) jointly by the competent authorities in accordance with Article 21(1) of Regulation No 575/2013; or
 - (ii) by the competent authority responsible for supervision on an individual basis in accordance with Article 21(2) of Regulation No 575/2013;
- (d) a decision on the application of Articles 73 and 97 of [Directive 2013/36/EU](#) to determine the adequacy of the consolidated level of own funds held by the group of institutions with respect to its financial situation and risk profile and the required level of own funds for the application of Article 104(1)(a) of [Directive 2013/36/EU](#) to each entity within the group of institutions and on a consolidated basis, where that decision has been made—
 - (i) jointly by the competent authorities in accordance with Article 113(1) of [Directive 2013/36/EU](#); or
 - (ii) by the consolidating supervisor in accordance with Article 113(3) of [Directive 2013/36/EU](#);
- (e) a decision on measures required to address any significant matters and material findings relating to liquidity supervision including relating to the adequacy of the organisation and the treatment of risks as required pursuant to Article 86 of [Directive 2013/36/EU](#) and relating to the need for institution-specific liquidity requirements in accordance with Article 105 of [Directive 2013/36/EU](#), where that decision has been made—
 - (i) jointly by the competent authorities in accordance with Article 113(1) of [Directive 2013/36/EU](#); or
 - (ii) by the consolidating supervisor in accordance with Article 113(3) of [Directive 2013/36/EU](#);
- (f) a decision to update a decision of the type specified in (d) or (e), where that decision has been made—
 - (i) jointly by the competent authorities in accordance with Article 113(4) of [Directive 2013/36/EU](#);

- (ii) by the consolidating supervisor in accordance with Article 113(4) of [Directive 2013/36/EU](#); or
 - (iii) as a decision of bilateral application made in accordance with Article 105 (4) of [Directive 2013/36/EU](#) by the consolidating supervisor and a relevant competent authority where one of those parties was the PRA or FCA;
 - (g) a decision under the second sub-paragraph of Article 124(2) of Regulation No 575/2013, taken by a competent authority other than the PRA or FCA, to set higher risk weights or apply stricter criteria in respect of exposures secured on residential or commercial immovable property located in its territory;
 - (h) a decision under the second sentence of Article 164(5) of Regulation No 575/2013, taken by a competent authority other than the PRA or FCA, to set higher minimum values of exposure weighted average LGD for exposures secured by immovable property located in their territory;
 - (i) a decision determining whether the criteria referred to in Article 29(2) and Article 34(2) of Commission Delegated Regulation (EU) 2015/61 of 10th of October 2014 are met, where that decision has been made—
 - (i) jointly by the competent authorities in accordance with Article 20(1) of Regulation No 575/2013; or
 - (ii) by the competent authority responsible for the supervision of the subsidiary on an individual basis in accordance with Article 20(5) of Regulation No 575/2013.
3. For the purposes of paragraph 2, references to specific provisions of Regulation No 575/2013, [Directive 2013/36/EU](#), and Commission Delegated Regulation (EU) 2015/61 are to those instruments as they stood immediately before exit day, and without the modifications made under the European (Withdrawal) Act 2018.(24).”(24).

Annex I (classification of off-balance sheet items)

217.—(1) Annex I (classification of off-balance sheet items) is amended as follows.

(2) For point 1(j) substitute—

“(j) asset sale and repurchase agreements—

- (i) including agreements where the transferee is merely entitled to return the assets at the purchase price or for a different amount agreed in advance on a date specified or to be specified, the transaction in question shall be deemed to be a sale with an option to purchase; and
- (ii) excluding agreements where the transferor is not entitled to show in his balance sheets the assets transferred”.

(24) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012; OJ No. L 176, 27.6.2013, p.1–337. [Directive 2013/36/EU](#) of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending [Directive 2002/87/EC](#) and repealing Directives [2006/48/EC](#) and [2006/49/EC](#); OJ No. L. 176, 27.6.2013, p.338-436. Commission Delegated Regulation (EU) 2015/61 of 10th October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions; OJ No. L 11, 17.1.2015, p.1–36.

(24) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012; OJ No. L 176, 27.6.2013, p.1–337. [Directive 2013/36/EU](#) of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending [Directive 2002/87/EC](#) and repealing Directives [2006/48/EC](#) and [2006/49/EC](#); OJ No. L. 176, 27.6.2013, p.338-436. Commission Delegated Regulation (EU) 2015/61 of 10th October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and Council with regard to liquidity coverage requirement for Credit Institutions; OJ No. L 11, 17.1.2015, p.1–36.

(3) In points 2(b)(iv), 3(b)(ii) and 4(c), for “EBA”, in each place it occurs, substitute “the competent authority”.

Annex II (types of derivative)

218. In Annex II (types of derivative), in paragraph 3, for “points 4 to 7, 9 and 10 of Section C of Annex I to [Directive 2004/39/EC](#)” substitute “paragraphs 4 to 7, 9 and 10 of Part 1 of Schedule 2 to the Regulated Activities Order”.

Annex III (items subject to supplementary reporting of liquid assets)

219.—(1) Annex III (items subject to supplementary reporting of liquid assets) is amended as follows.

(2) In point 6(c) for “bonds as referred to in Article 52(4) of [Directive 2009/65/EC](#)” substitute “CRR covered bonds”.

(3) In point 11 for “the domestic currency of the Member State” substitute “pounds sterling”.